

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICHARD DE'VONN WEBB,
Plaintiff,
v.
C.E. DUCART, et al.,
Defendants.

Case No. 17-cv-00330-HSG (PR)

**ORDER DENYING MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 15

On January 23, 2017, plaintiff filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 alleging claims for deliberate indifference to serious medical needs against officials and staff at Pelican Bay State Prison. Plaintiff's original complaint was dismissed with leave to amend. On September 29, 2017, the Court dismissed the amended complaint for failure to state a federal claim. Dismissal was without prejudice to re-filing in state court based on an alleged violation of state law. Now before the Court is plaintiff's motion for reconsideration.

Because the motion was filed after judgment was entered, it is construed as a request for relief from judgment under Federal Rule of Civil Procedure 60(b). *See* Civil L.R. 7-9(a) (allowing motions for reconsideration only with respect to pre-judgment interlocutory orders). Rule 60(b) provides for reconsideration where one or more of the following is shown: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered before the court's decision; (3) fraud by the adverse party; (4) the judgment is void; (5) the judgment has been satisfied; (6) any other reason justifying relief. Fed. R. Civ. P. 60(b); *School Dist. 1J v. ACandS Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Such a motion must be made within a "reasonable time," and as to grounds for relief (1)-(3), no later than one year after the judgment was entered. *See* Fed. R. Civ. P. 60(c).


1 Plaintiff's motion fails to make the showing required under Rule 60(b) or otherwise to
2 show good cause for reconsideration. Plaintiff argues that he has been unable to get relief in state
3 court. This argument is not grounds for reconsidering the dismissal of this action for failure to
4 state a federal claim.¹ Plaintiff is advised that motions for reconsideration should not be
5 frequently made or freely granted; they are not a substitute for appeal or a means of attacking
6 some perceived error of the court. *School Dist. 1J.*, 5 F.3d at 1263. Accordingly, the request for
7 relief from judgment is DENIED.

8 No further filings will be accepted in this closed case.

9 This order terminates Dkt. No. 15.

10 **IT IS SO ORDERED.**

11 Dated: 3/11/2019

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14 HAYWOOD S. GILLIAM, JR.
15 United States District Judge
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28 ¹ To the extent plaintiff seeks relief under Rule 60(b)(1)-(3), the motion must also be denied as untimely because plaintiff filed his motion more than one year after entry of judgment.